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**Item No. 10.1.1**  
**Harbour East - Marine Drive Community Council**  
**April 7, 2016**

**TO:** Chair and Members of Harbour East - Marine Drive Community Council

**SUBMITTED BY:** Original Signed  

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Bob Bjerke, Chief Planner & Director, Planning and Development

**DATE:** January 15, 2016

**SUBJECT:** Case 19659: Text Amendment to the Dartmouth LUB - R2 (Two Family Residential) Zone

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**ORIGIN**

Application by Dan and Sara Nordqvist.

**LEGISLATIVE AUTHORITY**

*Halifax Regional Municipality Charter (HRM Charter), Part VIII, Planning & Development*

**RECOMMENDATION**

It is recommended that Harbour East – Marine Drive Community Council:

1. Give First Reading to consider the proposed amendments to the Dartmouth Land Use By-Law to allow three unit dwellings within the R-2 (Two Family Residential) Zone in limited areas as described in Attachment A of this report, and schedule a public hearing; and
2. Approve the proposed amendments to the Dartmouth Land Use By-Law to allow three unit dwellings within the R-2 (Two Family Residential) Zone in limited areas as contained in Attachment A of this report.

## **BACKGROUND**

The applicants, Dan and Sara Nordqvist, propose to construct a third residential unit within an existing two unit building on Caledonia Road, Dartmouth. Under the Dartmouth Municipal Planning Strategy, both a rezoning and a development agreement are required to permit a three unit dwelling. However, due to lot size constraints that do not allow a rezoning to the R-3 (Medium Density) Zone, the applicant is proposing a Land Use By-Law (LUB) amendment to allow three unit dwellings under certain circumstances within the R-2 (Two Family Residential) Zone.

### **Subject Property**

<b>Location</b>	64 & 66 Caledonia Road, Dartmouth – south west corner of Caledonia Road and Westwood Drive intersection
<b>Property Area</b>	770 square metres (8,289 square feet)
<b>Regional Plan Designation</b>	Urban Settlement (US)
<b>Community Plan Designation (Map 1)</b>	Residential by the Dartmouth Municipal Planning Strategy (MPS)
<b>Current Zoning (Map 2)</b>	R-2 (Two Family Residential) Zone by the Dartmouth Land Use By-law (LUB)
<b>Current Use</b>	Two unit dwelling
<b>Surrounding Uses</b>	One and two unit dwellings to the west and north; multi - unit dwellings to the east; and park and recreation uses to the south

### **Proposal Details**

The applicants submitted the following detailed information in support of the application:

- A site plan showing that the subject property can accommodate parking and amenity areas;
- Floor plans showing that the existing two unit dwelling can accommodate a third residential unit without making changes to the exterior of the existing building; and
- A Traffic Impact Statement (TIS) that noted that Caledonia Road is a collector road that is serviced by Halifax Transit. The statement concludes that the traffic impact from the proposed third residential unit would be minimal.

### **General LUB Text Amendment**

The applicants are applying to allow the development of a third residential unit on the subject property. However, the proposed amendments to the R-2 Zone could impact a number of other properties in Dartmouth. Therefore, in reviewing this proposal, this report considers the impact of the proposed LUB amendments in terms of the applicant's specific request, as well as the potential impact on other potentially affected properties (see Map 3).

### **Enabling Policy**

Policy IP-1(j)(3) of the Dartmouth MPS indicates that the LUB may be updated provided the change is consistent with the intent of the MPS. Therefore, Harbour East – Marine Drive Community Council may consider amendments to the R-2 Zone requirements provided the changes are consistent with the Residential Designation, the general intent of the Dartmouth MPS and the Regional Plan.

## DISCUSSION

Staff has reviewed the proposal against all relevant policies and advise that it is consistent with the MPS and the Regional Plan. Attachment B provides an evaluation of the proposed LUB amendments in relation to the relevant policies of the MPS. Staff has identified the following aspects of the proposal for more detailed discussion.

### Residential Designation

Policy IP-1(b) establishes general land use categories, including the Residential Designation. This policy indicates that “*the uses permitted in the Zoning By-law shall be consistent with uses permitted under each category as shown in matrix form on Tables 4, 4a and 4b*” Table 4 indicates that a variety of residential uses are permitted in the Residential Designation, including single, duplex and low density multiple residential dwellings. Thus, amending the R-2 Zone to allow the limited development of three unit dwellings is consistent with the intent of the Residential Designation.

Policy IP-5 of the Dartmouth MPS also indicates that Council will “*require Development Agreements for apartment building development in R-3, R-4, C-2, MF-1 and GC Zone*”. This policy, however, does not define apartment buildings and also does not apply to the R-2 Zone. Thus, allowing the limited development of three unit dwellings in the R-2 Zone would not conflict with this policy.

### Lot Size

Within the Dartmouth LUB, the R-3 (Medium Density) and R-4 (High Density) Zones contain the following provision.

*No uses other than those permitted in R-1 and R-2 shall be permitted unless the lot area is equal to or greater than ten thousand square feet and unless the street frontage is equal to or greater than one hundred feet.*

With respect to apartment buildings, this provision means that proposals for three or more units are only permitted on lots that are at least 929 square metres (10,000 sq. ft.) in area and have 30.5 metres (100 ft.) of road frontage. In contrast, within the R-2 Zone, two unit dwellings are permitted on lots that are a minimum of 464 square metres (5,000 sq. ft.) in area and have a minimum of 15.2 metres (50 ft.) of road frontage.

While the large lot size requirement is reasonable for larger apartment buildings, it creates a barrier for three unit dwellings by requiring an additional 464 square metres (5,000 sq. ft.) of lot area for the third unit where only 232 square metres (2,500 sq. ft.) per unit is required for two unit dwellings. This large jump in minimum lot size is not supported or explained by MPS policies. Therefore, establishing unique provisions for three unit dwellings in limited situations for properties zoned the R-2 would address this inconsistency in lot size requirements that does not appear to be intended by the MPS.

### Intent of Regional Plan

Section 3.2 of the Regional Plan identifies several Settlement and Housing objectives (Attachment C). Two relevant objectives are to direct growth to areas where supporting services and infrastructure are already available and to provide housing opportunities for a range of needs. Allowing a three unit dwelling in established neighbourhoods and along main transportation corridors is consistent with these Regional Plan objectives because it would make efficient use of existing transportation and central services infrastructure, as well as help to increase the range of housing opportunities.

### Minimal Impact of Third Residential Unit

The proposed third residential unit would have a minimal impact on traffic and central services. Alterations to the exterior of existing two unit dwelling would not be permitted. However, maintenance of existing buildings would continue to be permitted. In addition, an applicant would need to demonstrate that one additional parking space could be accommodated on the property. This is addressed by requiring

a larger minimum lot size for the third residential unit. Thus, the proposal on the subject property and other similar locations within the Dartmouth Plan area would have a minimal impact on surrounding land uses.

### **Proposed LUB Amendments**

Staff have prepared LUB amendments for Harbour East – Marine Drive Community Council's consideration (Attachment A). The proposed amendments would enable the applicant to construct a third residential unit as-of-right within the R-2 Zone. Highlights of the proposed amendments include limiting the scope of the amendments to lots that:

- Are at least 697 square metres (7,500 sq. ft.) in area;
- Are located on a collector or arterial road;
- Are located directly across the street from R-3, R-4, C-2 or C-3 Zone properties or abutting such properties; and
- Contain a legally existing 2 unit dwelling where the third unit is capable of being developed without making exterior alterations to the building.

The limited locations where these criteria would be met would make efficient use of existing infrastructure and assist in transitioning such properties from higher density and commercial zones to lower density zoning. Impacts would be further minimized by requiring the additional unit to be located within an existing two unit dwelling. A mapping analysis shows that approximately 12 properties may be granted this flexibility, subject to detailed reviews at the time of permitting. Map 3 illustrates the general location of the applicable properties that may benefit from the proposed LUB amendment.

### **Conclusion**

Staff has reviewed the proposal in terms of all relevant policy criteria and determined that the proposed LUB amendment is consistent with the intent of the MPS and Regional Plan. Allowing a third dwelling unit in limited situations would address the unexplained increase in lot size requirements for three unit dwellings and allow a modest increase in density in areas that would make efficient use of existing services and infrastructure. Therefore, it is recommended that the Harbour East – Marine Drive Community Council approve the proposed LUB amendment to the R-2 Zone as set out in Attachment A.

### **FINANCIAL IMPLICATIONS**

The HRM costs associated with the processing of this planning application can be accommodated within the approved 2015/16 operating budget for C310 Planning & Applications

### **COMMUNITY ENGAGEMENT**

The community engagement process is consistent with the intent of the HRM Community Engagement Strategy.

The level of community engagement was information sharing, achieved through providing information and seeking comment through the HRM website, signage posted on the subject site and letters mailed to property owners within the notification area.

A public hearing must be held by Community Council before they can consider approval of the proposed LUB amendment. Should Community Council decide to proceed with a public hearing on this application, in addition to the published newspaper advertisements, property owners within the notification area shown on Map 2 will be notified of the hearing by regular mail.

The proposal will potentially impact residents and property owners within the areas shown on Map 3.

### **ENVIRONMENTAL IMPLICATIONS**

No additional concerns were identified beyond those discussed in this report.

### **ALTERNATIVES**

1. Harbour East – Marine Drive Community Council may choose to approve the proposed LUB amendments subject to modifications. This may necessitate further evaluation by staff and the need to hold a second public hearing. A decision of Council to approve the proposed LUB amendments is appealable to the N.S. Utility & Review Board as per Section 262 of the *HRM Charter*.
2. Harbour East – Marine Drive Community Council may choose to refuse the proposed LUB amendment, as set out in Attachment A, and in doing so, must provide reasons based on a conflict with relevant MPS policies. A decision of Council to refuse the proposed LUB amendments is appealable to the N.S. Utility & Review Board as per Section 262 of the *HRM Charter*.

### **ATTACHMENTS**

Map 1:	Generalized Future Land Use
Map 2:	Zoning and Area of Notification
Map 3:	Analysis of Proposed LUB amendment
Attachment A:	Proposed Amendments to the Dartmouth Land Use By-Law
Attachment B:	Review of Relevant Municipal Planning Strategy Policies
Attachment C:	Regional Plan Settlement and Housing Objectives

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A copy of this report can be obtained online at <http://www.halifax.ca/commcoun/index.php> then choose the appropriate Community Council and meeting date, or by contacting the Office of the Municipal Clerk at 902.490.4210, or Fax 902.490.4208.

Report Prepared by: Ben Sivak, Major Projects Planner, 902.490.6573

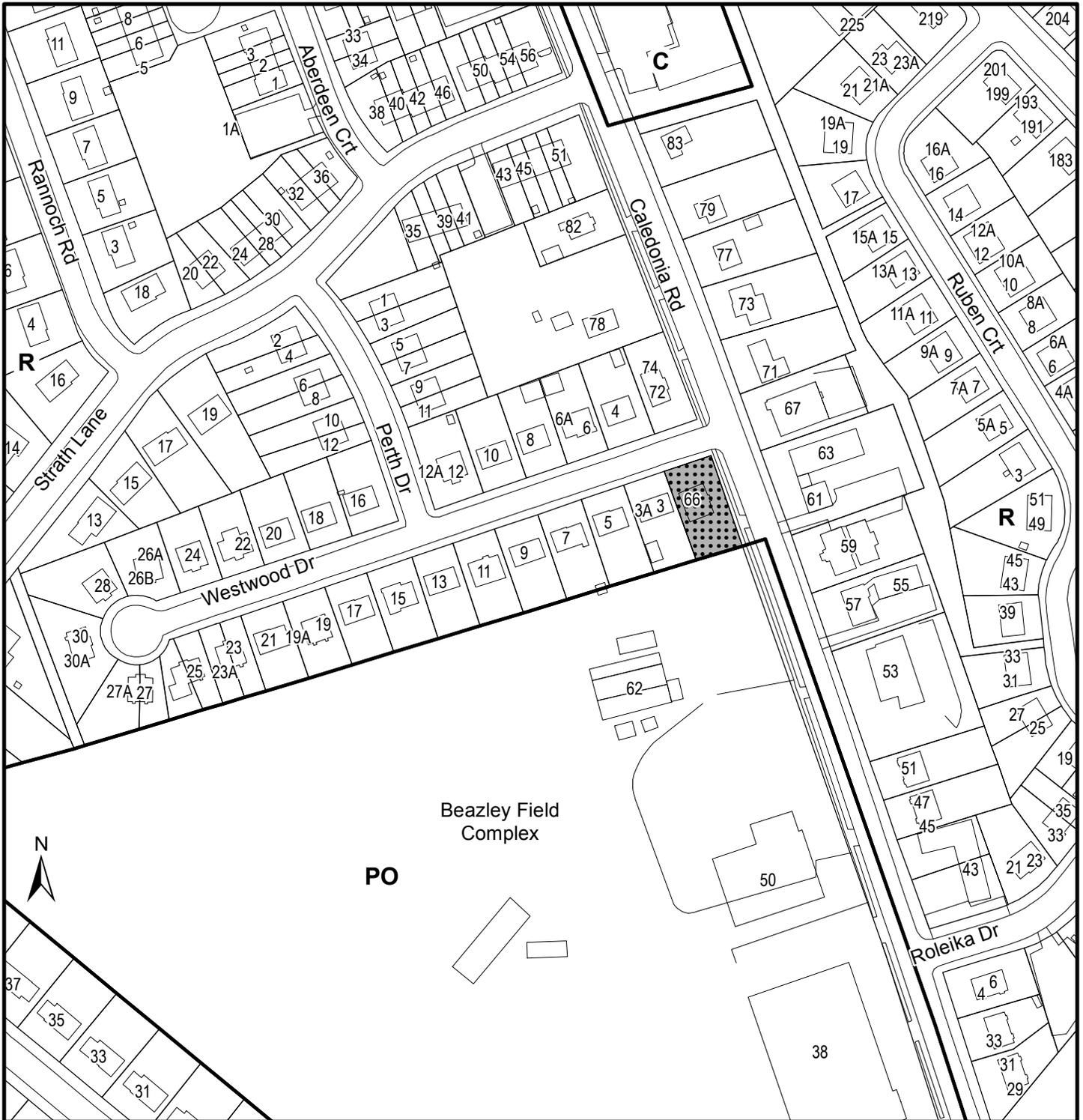
**Original Signed**

Report Approved by:

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Kelly Denty, Manager, Development Approvals, 902.490.4800

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**Map 1 - Generalized Future Land Use**

64 and 66 Caledonia Rd,  
Dartmouth

**HALIFAX**

 Subject Property

**Designation**

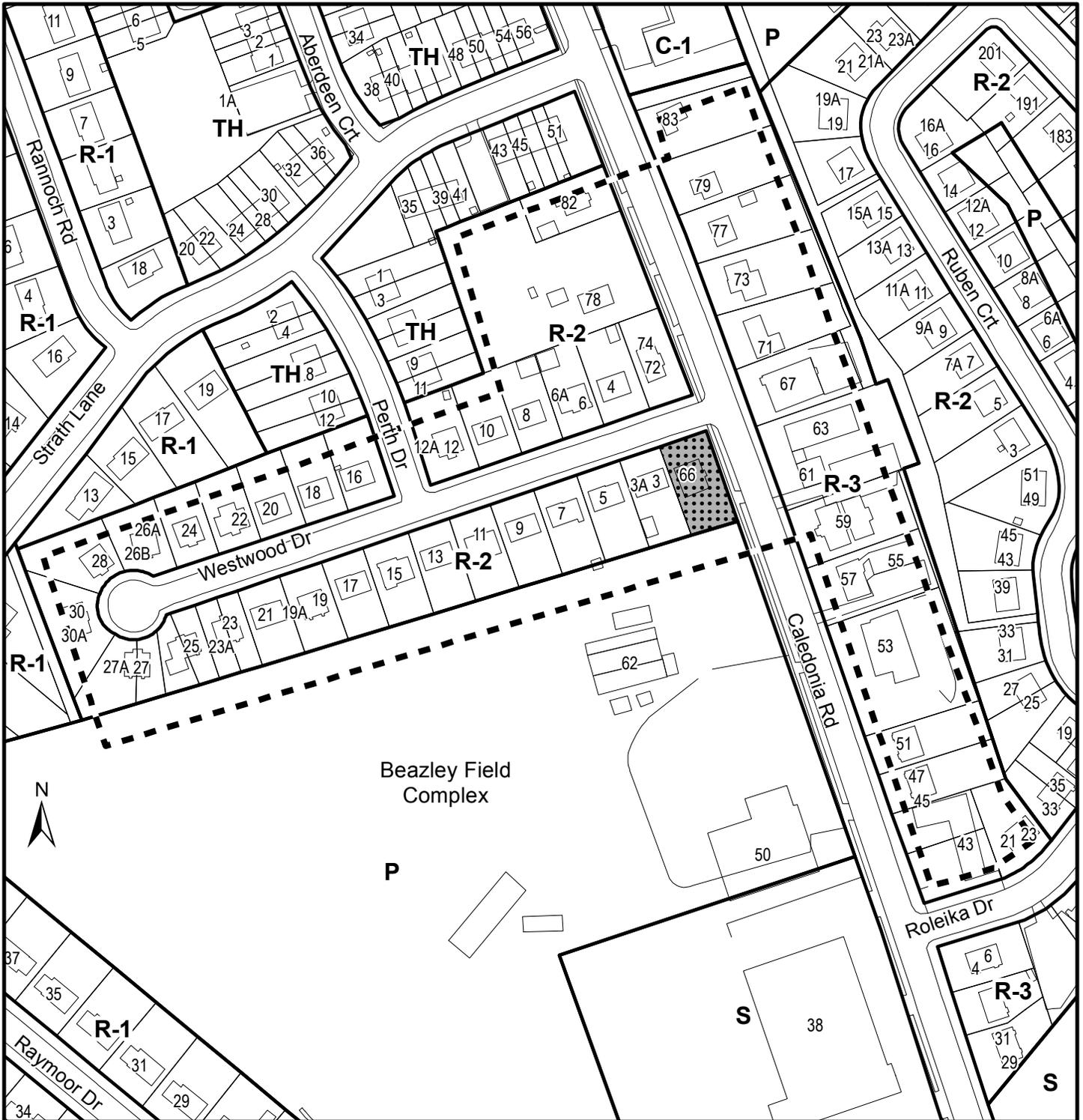
- R Residential
- C Commercial
- PO Park & Open Space



This map is an unofficial reproduction of a portion of the Generalized Future Land Use Map for the plan area indicated.

The accuracy of any representation on this plan is not guaranteed.

Dartmouth  
Plan Area



### Map 2 - Zoning and Notification

64 and 66 Caledonia Rd,  
Dartmouth

-  Subject Property
-  Area of Notification

Dartmouth  
Plan Area

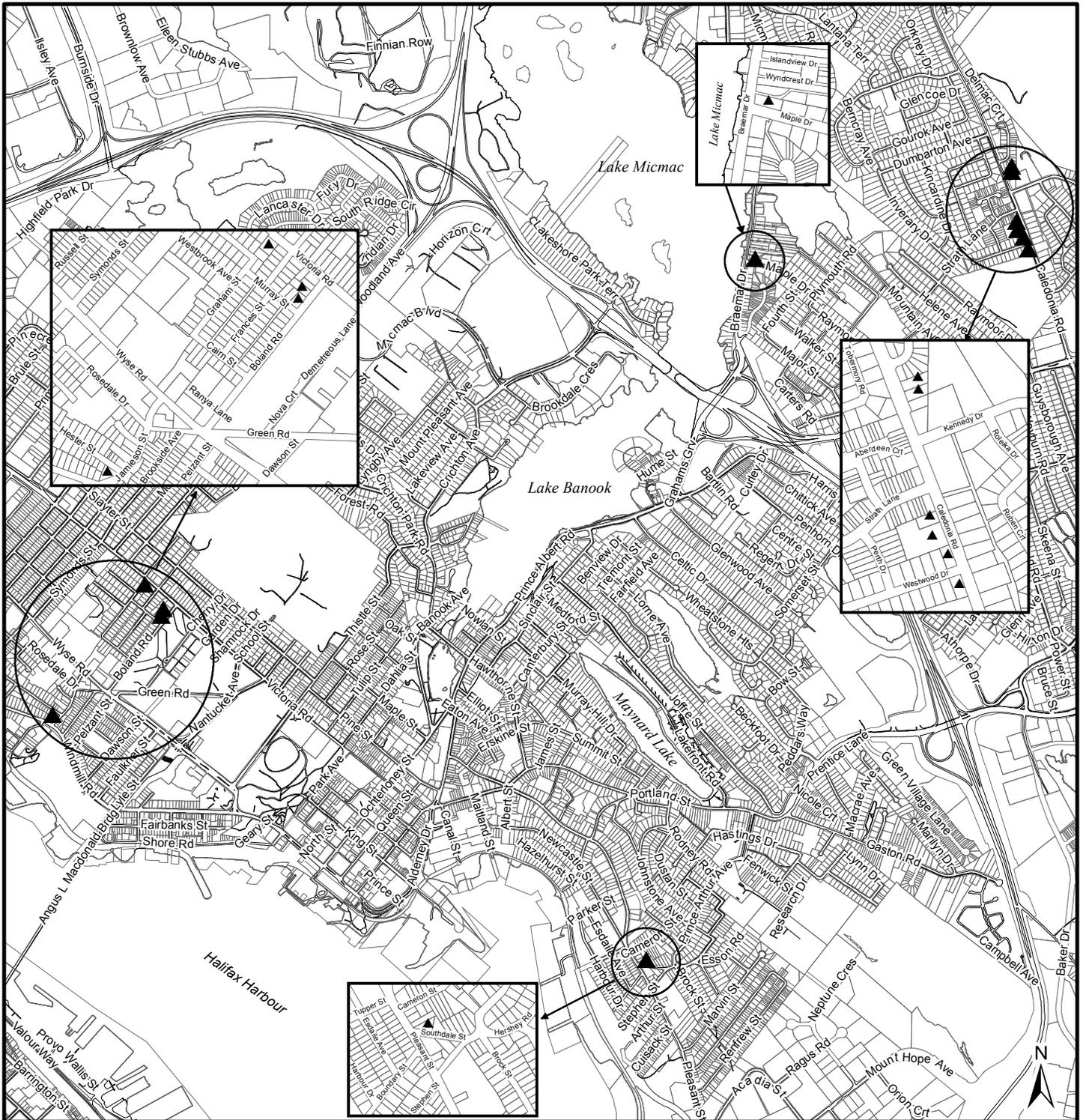
#### Zone

- R-1 Single Family Residential
- R-2 Two Family Residential
- R-3 Multiple Family Residential (Medium Density)
- TH Town Housing
- C-1 Local Business
- P Park
- S Institutional



This map is an unofficial reproduction of a portion of the Zoning Map for the plan area indicated.

The accuracy of any representation on this plan is not guaranteed.



### Map 3 - Analysis of Proposed LUB Amendment

Dartmouth

**HALIFAX**

▲ Potential Affected Properties



This map is an unofficial reproduction of a portion of the plan area indicated.

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Dartmouth  
Plan Area

**Attachment A**  
**Proposed Amendments to the Dartmouth Land Use By-Law**

BE IT ENACTED by the Harbour East – Marine Drive Community Council of the Halifax Regional Municipality that the Dartmouth Land Use By-Law, as amended, is hereby further amended as follows:

1. Within PART 3: R-2 (Two Family Residential) Zone, insert sub-section 33(6) following sub-section 33(5) as follows.

**“33(6) In addition to the uses permitted by clauses 33(1)(a)-(f), existing semi-detached or duplex dwellings are permitted an additional dwelling unit provided the following conditions are met;**

- (a) the lot is a minimum of 7,500 square feet in area;**
- (b) the lot has direct access to a Collector or Arterial Road, as identified on Map 4, Major Transportation Network, of the Municipal Planning Strategy;**
- (c) the lot abuts or is located directly across the road from an R-3, R-4, C-2 or C-3 zoned property; and**
- (d) The additional dwelling unit is wholly contained, except for the addition of steps, entranceways or accessibility ramps, within a semi-detached or duplex that existed on the date of the coming into effect of this subsection.”**

I HEREBY CERTIFY that the amendments to the Land Use By-law for Dartmouth as set out above, were passed by a majority vote of the Harbour East – Marine Drive Community Council of the Halifax Regional Municipality at a meeting held on the \_\_\_\_ day of \_\_\_\_\_, 201\_.

GIVEN under the hands of the Municipal Clerk and under the Corporate Seal of the Halifax Regional Municipality this \_\_\_\_ day of \_\_\_\_\_, 201\_.

\_\_\_\_\_  
Municipal Clerk

**Attachment B**  
**Review of Relevant Municipal Planning Strategy Policies**

<b>Dartmouth MPS</b>	
<b>Policy IP-1 (c) In considering zoning amendments and contract zoning, Council shall have regard to the following:</b>	
<b>Policy Criteria</b>	<b>Staff Comment</b>
<i>(1) that the proposal is in conformance with the policies and intent of the Municipal Development Plan</i>	The proposal is consistent with the Residential Designation of the MPS and intent of the Regional Plan concerning providing housing options and encouraging housing in areas that are currently serviced.
<i>(2) that the proposal is compatible and consistent with adjacent uses and the existing development form in the area in terms of the use, bulk, and scale of the proposal</i>	The proposal is consistent with surrounding zoning and uses. Special requirements will ensure only properties that abut or are located adjacent to higher density or commercial zoned properties are eligible for the added flexibility. The requirement for the third unit to be contained within an existing two unit dwelling further minimizes any impacts.
<i>(3) provisions for buffering, landscaping, screening, and access control to reduce potential incompatibilities with adjacent land uses and traffic arteries</i>	Existing R-2 Zone requirements and limiting the third residential unit to only existing two unit dwellings mitigates compatibility issues.
<i>(4) that the proposal is not premature or inappropriate by reason of:</i>	
<i>(i) the financial capability of the City is to absorb any costs relating to the development</i>	There are no anticipated costs to the municipality relating to the development.
<i>(ii) the adequacy of sewer and water services and public utilities</i>	Existing central services are adequate.
<i>(iii) the adequacy and proximity of schools, recreation and other public facilities</i>	The addition of one dwelling in limited areas is not anticipated to have a significant impact on municipal facilities and infrastructure.
<i>(iv) the adequacy of transportation networks in adjacent to or leading to the development</i>	A traffic impact statement (TIS) was submitted in support of this application. The TIS found that the addition of a third unit at the subject property would be very minimal. Similar conclusions are expected for the limited additional sites that may benefit from the amendment.
<i>(v) existing or potential dangers for the contamination of water bodies or courses or the creation of erosion or sedimentation of such areas</i>	No potential dangers from contamination have been identified.
<i>(vi) preventing public access to the shorelines or the waterfront</i>	The proposal does not prevent public access to any shorelines or waterfront.
<i>(vii) the presence of natural, historical features, buildings or sites</i>	No natural or historical features, buildings or sites have been identified.

<i>(viii) create a scattered development pattern requiring extensions to truck facilities and public services while other such facilities remain under utilized</i>	The proposed amendments would facilitate infill developments in existing serviced areas.
<i>(ix) the detrimental economic or social effect that it may have on other areas of the City.</i>	No negative impacts are expected.
<i>(5) that the proposal is not an obnoxious use</i>	A three unit dwelling is not considered an obnoxious use.
<i>(6) that controls by way of agreements or other legal devices are placed on proposed developments to ensure compliance with approved plans and coordination between adjacent or near by land uses and public facilities. Such controls may relate to, but are not limited to, the following: (i) type of use, density, and phasing (ii) emissions including air, water, noise (iii) traffic generation, access to and egress from the site, and parking (iv) open storage and landscaping (v) provisions for pedestrian movement and safety (vi) management of open space, parks, walkways (vii) drainage both natural and sub-surface and soil-stability (viii) performance bonds.</i>	NA – not a development agreement
<i>(7) suitability of the proposed site in terms of steepness of slope, soil conditions, rock outcroppings, location of watercourses, marshes, swamps, bogs, areas subject to flooding, proximity to major highways, ramps, railroads, or other nuisance factors</i>	The sites impacted are suitable.
<i>(8) that in addition to the public hearing requirements as set out in the Planning Act and City by-laws, all applications for amendments may be aired to the public via the “voluntary” public hearing process established by City Council for the purposes of information exchange between the applicant and residents. This voluntary meeting allows the residents to clearly understand the proposal previous to the formal public hearing before City Council</i>	In lieu of holding a public information meeting, alternative public consultation was conducted through a notification letter sent to property owners within the area identified on Map 2 of this staff report. The purpose of the notification letter was to solicit feedback on the proposal. No comments have been submitted. A public hearing must be held prior to Community Council making a decision on this application.
<i>(9) that in addition to the foregoing, all zoning amendments are prepared in sufficient detail to provide:</i>	
<i>(i) Council with a clear indication of the nature of proposed development, and</i>	The application was clear that this proposal seeks to utilize the existing two unit dwelling on the property for the addition of a third dwelling unit achieved through internal conversion.
<i>(ii) permit staff to assess and determine the impact such development would have on the land and the</i>	Supporting documentation (site plan, traffic impact statement etc.) was provided to staff to

<i>surrounding community</i>	facilitate a complete evaluation.
<i>(10) Within any designation, where a holding zone has been established pursuant to "Infrastructure Charges - Policy IC-6", Subdivision Approval shall be subject to the provisions of the Subdivision By-law respecting the maximum number of lots created per year, except in accordance with the development agreement provisions of the MGA and the "Infrastructure Charges" Policies of this MPS. (RC-Jul 2/02; E-Aug 17/02)</i>	NA

**Attachment C**  
**Regional Plan Settlement and Housing Objectives**

**3.2 OBJECTIVES**

1. Direct growth so as to balance property rights and life-style opportunities with responsible fiscal and environmental management;
2. Target at least 75% of new housing units to be located in the Regional Centre and urban communities with at least 25% of new housing units within the Regional Centre over the life of this Plan;
3. Focus new growth in centres where supporting services and infrastructure are already available;
4. Design communities that:
  - (a) are attractive, healthy places to live and have access to the goods, services and facilities needed by residents and support complete neighbourhoods as described in 6.2.2 (v) of this Plan;
  - (b) are accessible to all mobility needs and are well connected with other communities;
  - (c) promote energy efficiency and sustainable design;
  - (d) protect neighbourhood stability and support neighbourhood revitalization;
  - (e) preserve significant environmental and cultural features;
  - (f) promote community food security<sup>14</sup>;
  - (g) provide housing opportunities for a range of social and economic needs and promote aging in place;
5. Maintain the character of rural communities;
6. Preserve agricultural and resource lands;
7. Provide opportunities to establish a network of interconnected greenbelts and open spaces; and
8. Support housing affordability.